

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

DEAN KRUSE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:10-CV-00323
)	
GOLDMAN, SACHS & CO., INC., et al.,)	
)	
Defendants.)	

OPINION AND ORDER

A hearing was held today to address the motion to withdraw (Docket # 9) filed by Attorney John Price, counsel to Plaintiffs Dean Kruse and Kristin McGrade Kruse, and to also allow Plaintiffs to show cause why this case should not be dismissed under Federal Rule of Civil Procedure 4(m) for their failure to effectuate service on Defendants pursuant to this Court's March 14, 2011, Order. Attorney Price and Plaintiffs Dean Kruse and Kristin McGrade Kruse appeared telephonically.

Attorney Price represented at the hearing that he requests to withdraw because he has retired from the practice of law and relocated from the State of Indiana to Florida. Plaintiffs Dean Kruse and Kristin McGrade Kruse do not object to his withdrawal from the case. Therefore, Attorney Price's motion to withdraw as counsel (Docket # 9) is GRANTED, and Plaintiffs are GRANTED up to and including April 25, 2011, to secure successor counsel. Plaintiffs were admonished that if they do not secure successor counsel by such date and instead their *pro se* status continues indefinitely, it is problematic that the case can proceed as a class action. *See Johnson v. Chicago Pub. Schs.*, No. 10 C 4266, 2010 WL 2891629, at *2 (N.D. Ill. July 20, 2010); *Qualls v. N.I.U.*, No. 02 C 50081, 2003 WL 1949301, at *1 (N.D. Ill. Apr. 23, 2003)

(“Virtually every federal court to have addressed the issue has held that a pro se plaintiff . . . is not an adequate class representative.”).

Concerning the failure to secure service on Defendants, Plaintiffs have failed to show good cause for their continued failure to serve those entities. Nonetheless, based on Attorney Price’s unsubstantiated and conclusory statements that Defendants are somehow evading service, but also because Plaintiffs Dean Kruse and Kristin McGrade Kruse will be proceeding *pro se* until they obtain successor counsel, and to give them every opportunity to advance this case, the Court will GRANT Plaintiffs up to and including May 23, 2011, to effectuate service on Defendants. *See Panaras v. Liquid Carbonic Indus. Corp.*, 94 F.3d 338, 340-41 (7th Cir. 1995) (“If . . . good cause does not exist, the court may, in its discretion, either dismiss the action without prejudice or direct that service be effected within a specified time.” (citations omitted)). If service on Defendants is not shown to the Court by that date, the case will be subject to dismissal. The Clerk is DIRECTED to send a copy of this Order to Plaintiffs Dean Kruse and Kristin McGrade Kruse at 5437 County Road 27, Auburn, Indiana 46706.

SO ORDERED.

Entered this 24th day of March, 2011.

/S/ Roger B. Cosbey
Roger B. Cosbey,
United States Magistrate Judge